

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Armando Paul Stettner

Application No.: 09/747,168

Confirmation No.: 1237

Filed: December 21, 2000

Art Unit: 2154

For: SYSTEM AND METHOD TO MANAGE
PARTICIPANT INPUT FOR AN
INTERACTIVE SHOW

Examiner: J. Chang

APPEAL BRIEF

MS Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

As required under § 41.37(a), this brief is filed no more than two months after the Notice of Appeal filed in this case on May 15, 2006, and is in furtherance of said Notice of Appeal.

The fees required under § 41.20(b)(2) are dealt with in the accompanying TRANSMITTAL OF APPEAL BRIEF.

This brief contains items under the following headings as required by 37 C.F.R. § 41.37 and M.P.E.P. § 1206:

- | | |
|------|-----------------------------------|
| I. | Real Party In Interest |
| II | Related Appeals and Interferences |
| III. | Status of Claims |
| IV. | Status of Amendments |

V.	Summary of Claimed Subject Matter
VI.	Grounds of Rejection to be Reviewed on Appeal
VII.	Argument
VIII.	Claims
IX.	Evidence
X.	Related Proceedings
Appendix A	Claims

I. REAL PARTY IN INTEREST

The real party in interest for this appeal is:

Digeo, Inc.

II. RELATED APPEALS, INTERFERENCES, AND JUDICIAL PROCEEDINGS

There are no other appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in this appeal.

III. STATUS OF CLAIMS

A. Total Number of Claims in Application

There are 21 claims pending in this application.

B. Current Status of Claims

1. Claims canceled: 5
2. Claims withdrawn from consideration but not canceled: None
3. Claims pending: 1-4 and 6-22
4. Claims allowed: None
5. Claims rejected: 1-4 and 6-22

C. Claims On Appeal

The claims on appeal are claims 1-4 and 6-22

IV. STATUS OF AMENDMENTS

Applicant did not file an Amendment After Final Rejection.

V. SUMMARY OF CLAIMED SUBJECT MATTER

The present claims are directed to methods, articles of manufacture, and systems for screening participant comments or questions for content in a show, such as an interactive discussion show. (See, for example, p. 5, lines 19-23.) This includes receiving/collecting a comment or question from a participant. (See, for example, Block 304 of Fig. 3; p.5, lines 18-23.) After receiving the comment or question, a communication link of the participant is disconnected to allow others to use the communication link. (See, for example, p. 12, lines 12-18.) The comment or question is processed to determine the relationship of the comment or question to the show. (See, for example, Block 310, p. 15, line 6 - page 16, line 14.) If the comment or question is selected for the show, the participant is alerted. (See, for example, Block 312, p. 16, line 15 - page 17, line 2.) The communication link is then reconnected with the participant to interactively discuss the comment or question. (See, for example, Block 314, p. 17, lines 3-10.)

Other features include optionally using a different communication medium to send an alert than that used to receive the comment or question (see, for example, p. 11, line 22 to page 12, line 21) and allowing a participant to indicate an alert preference (see, for example, p. 14, line 23 to p. 15, line 5).

VI. GROUNDS OF OBJECTION TO BE REVIEWED ON APPEAL

A. Claims 1-3, 6, 8-12, 15-17, and 19-21 are rejected under 35 U.S.C. §1-3(a) as being unpatentable over U.S. Patent No. 6,292,547 to Katz ("Katz") in view of U.S. Patent No.

6,804,825 to White et al. ("White") and further in view of U.S. Patent Application Publication No. 2002/0048354 to Perlman et al. ("Perlman").

B. Claims 4, 13, and 22 are rejected under 35 U.S.C. §1-3(a) as being unpatentable over Katz in view of White and Perlman and further in view of U.S. Patent No. 6,425,828 to Walker et al. ("Walker").

C. Claims 7, 14, and 18 are rejected under 35 U.S.C. §1-3(a) as being unpatentable over Katz in view of White and Perlman and further in view of U.S. Patent No. 6,694,352 to Omoigui ("Omoigui").

VII. ARGUMENT

A. Rejection of claims 1-3, 6, 8-12, 15-17, and 19-21 under 35 U.S.C. §1-3(a) as being unpatentable over Katz in view of White and Perlman

1. Claims 1-3, 6, 8, 10, 11, and 21

Each of the independent claims (claims 1, 12, 16, and 21) describes receiving/collecting a comment or question from a participant, disconnecting a communication link of (or communication with) the participant, processing the comment or question, and, if the comment or question is selected for the show, alerting the participant and reconnecting the communication link (or reestablishing communication) with the participant to interactively discuss the comment or question. None of the cited prior art, alone or in combination, teaches or suggests these claim elements.

Katz is directed to a telephone based system for obtaining digital data to be used in a variety of applications including lotteries; public auctions; polling the public about products or health status; contests; commercials; etc. (Abstract; Col. 3:31-42.) Callers may be screened or qualified and the data of individual callers may be collected, correlated or tested. (Col. 3:21-25.) The various embodiments of Katz have different objectives; collect different sets of data; and interact with the caller in different ways. Many of these differences are specific to the particular embodiment.

White discloses, among other embodiments, a "celebrity chat" show in which individuals can submit questions through a dial-up connection. (Col. 8:9-50.) Viewers of this celebrity chat show can ask questions by activating an Ask Question feature. (Col. 8:33-36.) White teaches: "After the question has been transmitted, the dial-up link is automatically terminated. If the viewer's question is selected by the moderator, it will eventually appear in the typed transcript of the interview together with the celebrity's response." (Col. 8:40-44.)

Perlman is directed to maintaining a dial-up Internet connection between a client and a server when a Call Waiting signal is received on the telephone line providing the connection. (Abstract.) Call Waiting signals generally disrupt a dial-up connection. (*Id.*) To address the interruption, the client waits a period of time after the Call Waiting signal and then automatically reestablishes the connection with the server if the line is clear. (*Id.*)

The Office Action asserts that each of the independent claims is unpatentable over the combination of Katz, White, and Perlman. The Applicant respectfully submits that this combination of references does not establish a *prima facie* case of obviousness. None of the prior art references, alone or in combination, teach or suggest receiving/collecting a comment or question from a participant, disconnecting the communication link (or communication) with the participant, and, if the comment or question is selected for the show, alerting the participant and reconnecting the communication link (or reestablishing communication) with the participant, as recited in the claims.

First, the Office Action improperly combines elements from embodiments of Katz directed to different applications to assert that Katz teaches receiving participant comments or questions and alerting the participant if the comment or question is selected for discussion on a show. While the applications in Katz have some features in common, teachings regarding one application are not necessarily applicable to others.

For a teaching regarding receiving/collecting participant comments or questions for a show, the Office Action points to a portion of Katz directed to obtaining caller views with

respect to a specific issue. (Katz, Col. 20:12-23.)¹ The Office Action acknowledges that “Katz does not specifically disclose interactively discussing the participant comment or question in the discussion show.” (Office Action, p. 4.)

With respect to the alleged “comments or questions”, Katz does not describe alerting a participant that their comments or questions will be used for discussion in the show. For a teaching related to “alerting a participant”, the Office Action points to a different embodiment of Katz directed to a telephone-based lottery system in which callers are notified of winning or losing after their input has been screened. (Col. 13:48-55.)² Katz does not teach or suggest, however, that comments or questions are received or collected from lottery participants. Also, it appears that the callers are notified of winning or losing while they are still connected to the Katz interface. This is substantially different from the present claims which require that the participant be alerted after he has been disconnected.

The Office Action fails to provide any indication as to how or why these different concepts from two disparate applications in Katz would be combined by one of ordinary skill in the art. For example, after receiving caller views on an issue there is no teaching or suggestion in Katz to alert a participating caller that his comment or question was selected for discussion. For the caller response application, the Katz system is designed to obtain statistical information regarding the caller responses and not to obtain caller comments or questions for possible later discussion with the caller. This application does not teach or suggest a mechanism for alerting a participant based on his response.

¹ Other portions of Katz identified in the Office Action for this particular element are not directed to “comments or questions” or to an “interactive discussion show” (claims 1, 16, and 21). In one instance, Katz describes obtaining caller responses to questions asked about a dramatic presentation (e.g., “Push the button on your telephone for the number of persons present in the room when the will was read.”) (Katz, Col. 19, lines 12-23.) This type of response is certainly not a question, nor does it qualify as a comment from the participant; it is merely a factual answer to a question. Other portions of Katz cited in the Office Action describe alphanumeric entry of unspecified data (Col. 3:64-4:14); telephone numbers (Col. 6:48-7:12; 7:20-28); and caller initials and health data (Col. 7:45-63). None of these items qualify as a “question or comment” as recited in the claims.

² Col. 3:17-30 are also cited in the Office Action but this portion of Katz discusses selecting or screening callers, as well as various ways of processing the information provided by callers. There is no discussion regarding later alerting callers.

With respect to the lottery application, Katz does not teach or suggest obtaining participant comments or questions. This particular application simply identifies caller participation and alerts the winner of the lottery.

Thus, the Office Action is picking and choosing elements from disparate applications mentioned in Katz without providing any motivation or rationale that would support such a combination or modification of the particular application(s). In summary, Katz does not teach or suggest receiving a comment or question from a participant and alerting the participant if the comment or question is selected for discussion on a show. None of the other references teach or suggest this combination of elements.

Second, none of the cited references, alone or in combination, teach or suggest reconnecting the communication link with the participant to allow the participant to interactively discuss the question or comment. The Office Action acknowledges that "Katz does not specifically disclose communication link to be reused by other participant and reconnecting the communication link with the participant to discuss the comment or question in the show." (Office Action, p. 5.)

To provide support for the rejection, the Office Action asserts that White teaches reconnecting the communication link with the participant because "the dial-up link is inherently reconnected when the participant transmits another question or comment." (*Id.*) It appears that the Office Action is asserting that the claim element directed to reconnection or reestablishment of communication is met if the participant initiates a second connection with the show. Such an action does not, however, correspond to the recited claim elements of determining a relationship of the participant's comment or question with the show, alerting the participant if the comment or question is selected, and then reconnecting the participant to interactively discuss the comment or question. These are not steps/actions performed by the participant. Thus, the Office Action's assertion regarding the alleged inherent teaching of White fails.

The Office Action also asserts that Perlman teaches reconnecting/reestablishing communication with a participant. Perlman, however, is directed to a very different problem;

namely the maintenance of an Internet connection when an outside disruptive signal (i.e. a call-waiting signal) is presented. One of skill in the art would not turn to Perlman to design a system for voluntarily disconnecting a communication link to a user/participant so that others can use the link. Perlman is instead directed to the opposite action; namely, the maintenance of a communication link despite disruption. Thus, Perlman, alone or in combination with other cited references, does not teach or suggest disconnecting a communication link of a participant and then later reconnecting the communication link if the participant's comment or question is selected.

In Summary, none of the cited references, alone or in combination, teach or suggest receiving/collecting a comment or question from a participant, disconnecting the communication link of (or communication with) the participant, and, if the comment or question is used, alerting the participant and reconnecting the communication link (or reestablishing communication) with the participant to interactively discuss the comment or question. Accordingly, a *prima facie* case of obviousness regarding claims 1 and 21, as well claims 2, 3, 6, 8, 10, and 11 which depend therefrom, has not been established. The Applicant respectfully requests that the rejection of these claims be reversed.

2. Claims 12, 15-17, 19, and 20

As indicated in Section VII.A.1 above, each of the independent claims (claims 1, 12, 16, and 21) describes receiving/collecting a comment or question from a participant, disconnecting a communication link or (or communication with) the participant, processing the comment or question, and, if the comment or question is selected for the show, alerting the participant and reconnecting the communication link (or reestablishing communication) with the participant to interactively discuss the comment or question. As described in the preceding section, none of the cited prior art, alone or in combination, teaches or suggests all of these claim elements. Therefore, claims 12, 15-17, 19, and 20 are patentable over the cited references for at least the reasons indicated in Section VII.A.1.

Moreover, the Office Action's assertions that White and Perlman teach reconnecting (or reestablishing communication with) the participant is clearly inadequate with respect to

independent claims 12 and 16 which are directed to an article of manufacture and a system, respectively. In these claims, the article of manufacture/system is explicitly recited as the agency that performs the reconnection, not the participant. Both White and Perlman describe reconnection from the participant/client side, while claims 12 and 16 are directed to reconnection from the show side. White and Perlman, alone or in combination with other cited references, do not teach or suggest an article of manufacture or system that reconnects a participant after disconnecting the participant, processing the participant's question or comment, and alerting the participant if his question or comment is selected for the show.

Accordingly, a *prima facie* case of obviousness regarding claims 12 and 16, as well as claims 15, 17, 19, and 20 which depend therefrom, has not been established. The Applicant respectfully requests that the rejection of these claims be reversed.

3. Claim 9

Claim 9 depends from claim 1 and is patentable over the cited references for at least the reasons indicated in Section VII.A.1 above.

Furthermore, Claim 9 recites that "the participant comment is receivable via a communication medium different from a communication medium usable to alert the participant." The Office Action cites to Col. 4:24-34, 48-55 and Col. 13:48-55 of Katz for this feature. The cited portions of Katz teach a phone system that both receives and sends information. These portions of Katz fail to teach or suggest using a different communication medium to alert the participant. It appears that in the cited portions of Katz the phone system is the only communication medium used.

Accordingly, a *prima facie* case of obviousness regarding claim 9 has not been established. The Applicant respectfully requests that the rejections of this claim be reversed.

B. Rejection of claims 4, 13, and 22 under 35 U.S.C. §1-3(a) as being unpatentable over Katz in view of White and Perlman and further in view of Walker

1. Claims 4 and 13

Walker is directed to an online distributed electronic tournament system. (Abstract.) The Office Action cites Walker for allegedly teaching an alert preference. (Office Action, p. 10.)

Claims 4 and 13 depend from claims 1 and 12 respectively and are patentable over the cited references for at least the reasons indicated in Sections VII.A.1 and VII.A.2 above. Walker does not address any of the deficiencies of Katz, Perlman, and White described above in Sections VII.A.1 and VII.A.2. Accordingly, none of the cited reference, alone or in combination, teach or suggest the elements of claims 4 and 13. Therefore, the Applicant respectfully requests reversal of the rejection of these claims.

In addition, claims 4 and 13 recite identifying an alert preference of the participant. The Office Action acknowledges that Katz, White, and Perlman do not specifically disclose this element. The Office Action cites Walker as disclosing “email, audible or visual alerts ... player preference....” (Office Action, p. 10.) The Applicant respectfully submits that Walker does not teach or suggest identifying an alert preference of a participant.

While Walker does teach various ways of alerting a user (Col. 14:30-35), Walker does not teach or suggest that the user can indicate a preference for the alert. The preference identified by the Office Action is clearly a preference to a game format: “First, the player enters 552 the game format he prefers to play The preference is communicated 554 to the central controller....” (Col. 14:27-30.) Such preferences directed to game format do not teach or suggest an alert preference. None of the other references address this deficiency of Walker.

Therefore, none of the cited references, alone or in combination, teach or suggest all of the elements of claims 4 and 13. Accordingly, the Applicant respectfully requests reversal of the rejection of these claims.

2. Claim 22

Claim 22 depends from claim 21 and is patentable over the cited references for at least the reasons indicated in Section VII.A.1 above. Walker does not address any of the deficiencies of Katz, Perlman, and White described above in Section VII.A.1. Accordingly, none of the cited reference, alone or in combination, teach or suggest the elements of claim 21. Therefore, the Applicant respectfully requests reversal of the rejection of this claim.

C. Rejection of claims 7, 14, and 18 under 35 U.S.C. §1-3(a) as being unpatentable over Katz in view of White and Perlman and further in view of Omoigui

Omoigui is directed to methods of notifying clients regarding live electronic presentations. (Abstract) The Office action cites Omoigui for teaching the conversion of audio input into a text format. (Office Action, p. 11.)

Omoigui does not address any of the deficiencies of Katz, Perlman, and White described above in Sections VII.A.1 and VII.A.2. Claims 7, 14, and 18 are dependent claims and are patentable over the cited references for at least the reasons indicated in Sections VII.A.1 and VII.A.2 above. Accordingly, none of the cited reference, alone or in combination, teach or suggest all of the elements of claims 7, 14, and 18. Therefore, the Applicant respectfully requests reversal of the rejection of these claims.

VIII. CLAIMS

A copy of the claims involved in the present appeal is attached hereto as Appendix A. As indicated above, the claims in Appendix A do include the amendments filed by Applicant on November 28, 2005.

IX. EVIDENCE

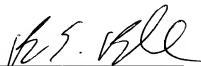
No evidence pursuant to §§ 1.130, 1.131, or 1.132 or entered by or relied upon by the examiner is being submitted.

X. RELATED PROCEEDINGS

No related proceedings are referenced in II. above, or copies of decisions in related proceedings are not provided, hence no Appendix is included.

Dated: July 13, 2006

Respectfully submitted,

By 

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APPENDIX A

Claims Involved in the Appeal of Application Serial No. 09/747,168

1. (previously presented) A method for screening participant comments or questions for content in an interactive discussion show, comprising:

for each participant desiring to provide a comment or question to be discussed in the show:

receiving the participant question or comment and subsequently disconnecting a communication link with the participant before the question or comment is discussed to allow the communication link to be reused by other participants;

storing the participant comment or question in a storage location;

automatically processing the stored participant comment or question to determine a relationship of the participant comment or question to the show;

based on the determined relationship, alerting the participant if the participant comment or question is selected for discussion in the show; and

reconnecting the communication link with the participant to allow the participant to interactively discuss the participant comment or question in the show.

2. (previously presented) The method of claim 1, further comprising prior to receiving the participant comment or question for the show, notifying the participant of an availability of the show to receive the participant comment or question.

3. (original) The method of claim 1 wherein the show comprises a television show or a radio show.

4. (original) The method of claim 1, further comprising identifying an alert preference of the participant.

5. (canceled)

6. (previously presented) The method of claim 1 wherein alerting the participant who submitted the participant comment or question includes alerting the participant who subject matter related to another participant's comment or question is to be addressed in the show.

7. (previously presented) The method of claim 1 wherein automatically processing the stored participant comment or question to determine the relationship of the participant comment or question to the show includes:

using a speech recognition technique to convert an audio format of the participant comment or question into a text format; and

performing a keyword search on the text format to classify the participant comment or question relative to the show.

8. (previously presented) The method of claim 1 wherein a human operator selects the participant comment or question for the show.

9. (previously presented) The method of claim 1 wherein the participant comment or question is receivable via a communication medium different from a communication medium usable to alert the participant.

10. (original) The method of claim 1 wherein alerting the participant is capable of being done via one of a telephone call, voicemail, facsimile, email, instant message, screen alert, or page.

11. (previously presented) The method of claim 1 wherein the participant comment or question is capable of being received via one of a telephone call, voicemail, facsimile, email, instant message, transmission from a web page, page, video transmission, avatar transmission, cable modem transmission, interactive video casting transmission, or wireless transmission.

12. (previously presented) An article of manufacture, comprising:
a machine-readable medium having stored thereon instructions to:

collect participant comment or question submitted for a show, wherein a communication link with a participant who submitted the participant comment or question is disconnected subsequent to submission of the participant comment or question before the comment or question is discussed to allow the communication link to be reused by other participants;

process the stored participant comment or question to determine relevance of the participant comment or question to the show;

based on a determination of relevance, alert the participant who submitted the participant comment or question if the participant comment or question is selected for discussion in the show; and

reconnecting the communication link with the participant to allow the participant to interactively discuss the participant comment or question in the show.

13. (original) The article of manufacture of claim 12 wherein the machine-readable medium further includes instructions stored thereon to identify an alert preference of the participant.

14. (previously presented) The article of manufacture of claim 12 wherein the instructions to process the stored participant comment or question to determine the relationship of the participant comment or question to the show includes instructions to:

apply speech recognition to convert an audio format of the participant comment or question into a text format; and

perform a keyword search on the text format to classify the participant comment or question relative to the show.

15. (previously presented) The article of manufacture of claim 12 wherein the instructions to collect the participant comment or question submitted for the show includes instructions to correlate the participant comment or question according to predefined criteria.

16. (previously presented) A system for screening participant comment or question for content in an interactive discussion show, comprising:

a server coupleable to receive participant comment or question for a show from each of a plurality of participants desiring to provide comment or question, wherein a communication link with the participant who submitted the participant comment or question is disconnected subsequent to reception of the participant comment or question and before discussion thereof to allow the communication link to be reused by other participants;

a storage unit to store each participant comment or question received by the server, the participant comment or question stored in the storage unit capable of being automatically processed to determine a relationship of the participant comment or question to the show; and

an alert generator to generate and transmit an alert to the participant terminal if, based on the determined relationship, the participant comment or question received from the partisan terminal is selected for discussion in the show;

wherein the server is further to reconnect the communication link to the participant whose comment or question was selected to allow the participant to interactively discuss the selected participant comment or question in the show.

17. (previously presented) The system of claim 16, further comprising an interactive video casting network coupleable to provide the show to the participant terminal and to provide the participant comment or question from the participant terminal to the server.

18. (previously presented) The system of claim 16, further comprising another storage unit having speech recognition software to convert an audio format of the participant comment or question into a text format, and having keyword search software to search the text format for a keyword to classify the participant comment or question relative to the show.

19. (previously presented) The system of claim 16, further comprising a monitor coupled to the storage unit to control processing of the participant comment or question stored in the storage unit and to control operation of the server.

20. (previously presented) The system of claim 16 wherein the server is capable to store the received participant comment or question into the storage unit according to predefined criteria.

21. (previously presented) A method for content screening of participant comment or question in an interactive discussion show, comprising:
establishing communication with a participant to receive a participant comment or question using a first communication medium;
disconnecting communication with the participant after receiving the participant comment or question and before discussion thereof to allow communication to be established with other participants;
storing the participant comment or question in a storage location;
in response to the participant comment or question being selected for discussion in the show, alerting the participant who submitted the participant comment or question using a second communication medium, the second communication medium being different from the first communication medium; and
reestablishing communication with the participant to allow the participant to interactively discuss the participant comment or question in the show.

22. (previously presented) The method of claim 21, wherein second communication medium used to deliver the alert comprises an e-mail message.